

REMARKS

Status of the Claims

Claims 1, 5, 11-13, 36, 37, and 46-51 are pending in this application, claims 2-3, 6-10, 14-35, and 38-45 having been cancelled. Claims 1, 5, 11-13, 36, and 37 are allowed and claims 46-51 stand rejected. After entry of the amendments made herein, claims 1, 5, 11-13, 36, 37, and 46-51 will be pending in this application.

35 U.S.C. §103(a) rejection

Claims 46-51 stand rejected as being unpatentable over Freeman et al. in view of Romanos et al.

From the comments on page 2, line 15, to page 5, line 6, of the Office Action, Applicants understand the Examiner's position to be that, in view of Freeman et al.'s disclosure that Freeman et al.'s SEQ ID NO:4 contains a signal peptide of "about amino acids 1-18" combined with the disclosure by Romanos et al. of polypeptides lacking native signal peptides but containing exogenous signal peptides, it would have been obvious to one of ordinary skill in the art to make a nucleic acid construct containing present SEQ ID NO:1 but specifically lacking codons 1-22 of SEQ ID NO:1. In view of the lack of teaching, or motivation, by either of these references to make a construct containing SEQ ID NO:1 but specifically lacking codons 1-22 of SEQ ID NO:1, Applicant strongly disagrees with this position. Nevertheless, in order to expedite prosecution of the instant application, Applicant has amended claim 45 by deleting the clause "SEQ ID NO:1 but lacking amino acid residues 1-22 of SEQ ID NO:1" without prejudice to this embodiment of the invention being pursued in a separate application. This amendment adds no new matter.

In light of the above considerations, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

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Attorney's Docket No.: 07039-187001

CONCLUSION

Applicant submits that the pending claims patentably define the invention. Applicant requests that the Examiner reconsider the rejections set forth in the Office Action, and permit the pending claims to pass to allowance.

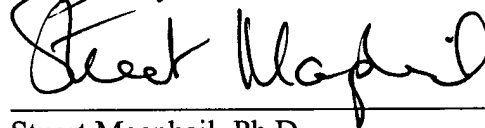
If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's undersigned representative can be reached at the telephone number listed below.

Enclosed is a request for an automatic extension of time and a check in payment of the extension of time. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 07039-187001.

Date: _____

3/9/04

Respectfully submitted,



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